

GIL 1-14-4 Sales and Use Tax: Admissions – Hunting

December 18, 2014

Dear XXXX:

We have received your questions regarding the applicability of the sales tax on charges for the right to hunt. Because of the nature of the questions asked, we are issuing this reply as a General Information Letter (GIL).

GILs address general questions; provide analysis of issues; and direct taxpayers to the Nebraska statutes, Nebraska Department of Revenue (Department) regulations, revenue rulings, or other sources of information to help answer a question. A GIL is a statement of current Department policy, and taxpayers may rely on the Department to follow the principles or procedures described in a GIL until it is rescinded or superseded. You may also find current regulations, revenue rulings, information guides, taxpayer rulings, and other GILs that may be helpful to you at revenue.nebraska.gov.

You pose four different scenarios for analysis and answer. This GIL addresses them consecutively.

1. If a landowner charges \$1,500 for the right to come onto the property during the calendar year for the right to only hunt, is this a taxable admission?

Response: Yes, a charge for access to land to hunt is a taxable admission under Nebraska law. [Neb. Rev. Stat. § 77-2703\(1\)](#) provides that “gross receipts from the sale of admissions” is subject to sales tax. [Neb. Rev. Stat. § 77-2701.55\(1\)](#) defines an admission as “the right or privilege to have access to a place or location where amusement, entertainment, or recreation is provided to an audience, spectators, or the participants in the activity.” Subsection (2)(c) defines recreation as “a sport or activity engaged in by participants for purposes of refreshment, relaxation, or diversion of the participants.” However, [77-2701.55\(3\)](#) provides that “[a]dmission does not include the lease or rental of a location, facility, or part of a location or facility if the lessor cedes the right to determine who is granted access to the location or facility to the lessee for the period of the lease or rental.”

Given the limited facts presented in your question, it appears that the owner of the land does not cede the right to determine who is granted access to the hunter. Rather, it seems that the landowner has retained the right to grant others access to his or her land for the purpose of hunting, or for other recreational or commercial purposes. Under these facts, the landowner has not rented or leased the land to the hunter.

Based on the statutory definitions, hunting is “recreation” because it is a “sport or activity engaged in for purposes of refreshment, relaxation, or diversion of the participants” (the

hunters). Therefore the charges to hunters for access to a particular place for purposes of hunting are within the definition of admissions and are subject to Nebraska state and local sales taxes.

Finally, none of the exemptions from sales tax on admissions found in Neb. Rev. Stat. §§ [77-2704.10](#) or [77-2704.63](#) (admissions to school events, statewide athletic events, and youth sports events and leagues) apply in this situation. Therefore, the \$1,500 charge is a taxable admission. The landowner should obtain a permit by filing a [Nebraska Tax Application, Form 20](#), and collect and remit sales tax to the Department. Because it is an admission, [Reg-1-044.03](#) allows the sales tax to be included in the total sales price as long as the price before tax is separately shown on the invoice or receipt or posted conspicuously on the premises.

2. If a landowner also offers the service of a guide for an additional charge of \$250, is the additional charge for the guide taxable?

Response: Yes, the additional charge for the services of a guide is also subject to sales tax. [Neb. Rev. Stat. § 77-2703\(1\)](#) imposes the sales tax on the “gross receipts from the sale of admissions.” Gross receipts is defined in [Neb. Rev. Stat. § 77-2701.16\(1\)](#) as “the total amount of the sale or lease or rental price.” “Sales price” is defined in [Neb. Rev. Stat. § 77-2701.35](#) to include “charges by the seller for any services necessary to complete the sale.” Therefore, the total amount charged by the landowner is subject to sales tax as an admission. This includes the charge for the guide, whether the guide is the landowner or someone else hired by the landowner. The entire charge is part of the gross receipts for the sale of the admission.

This is true even though guide services are not one of the services that are subject to tax under Nebraska law. If a hunter separately contracts for a guide, the charge by the guide for that service would not be subject to tax. However, when the charge is made by the person who is granting the admission, the entire charge is subject to sales tax as part of the gross receipts for an admission.

3. If a guide purchases exclusive rights to the land for hunting purposes is this charge taxable? If the guide then sells his guide services to one or more individuals, is the charge for his service taxable?

Response: The transaction between the landowner and the guide is not subject to sales tax. This transaction falls within the exclusion of leases or rentals from the definition of “admission” provided in [§ 77-2701.55\(3\)](#) (quoted in its entirety above). Therefore, the transaction between the guide and the landowner is not an admission and is not subject to sales tax.

However, the charges by the guide to his or her customers are admissions and subject to sales tax. The guide, like the landowner in question #1, must obtain a sales tax permit and collect and remit sales tax to the Department.

4. **If a landowner or guide charges an additional fee, based on the type or size of the animal taken on the land, is the additional fee taxable? For instance \$100 per turkey or \$500 per deer.**

Response: Yes, the additional fee is subject to sales tax. This is essentially the same analysis as provided in the response to question #2. The extra charge for the birds or animals is like the extra charge for the guide service. It is part of the gross receipts for selling the admission and is subject to sales tax. The landowner or guide would not be considered to be selling the bird or animal.

Kim Conroy
Tax Commissioner